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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,249	10/16/2001	Brian J. Brozell	17638 USA	7618

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EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,249

Applicant(s)

BROZELL ET AL.

Examiner

Niki M. Eloshway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-28,42-49 and 57-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 57-59 is/are allowed.
- 6) ☒ Claim(s) 1-7,9-13,15-26,28,42-48,60 and 61 is/are rejected.
- 7) ☒ Claim(s) 14, 27, 49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-6, 9, 16-19, 42 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiles et al. (U.S. 4,387,817). Wiles et al. teaches a container with external threads 12a, and a closure 14. The external threads 12a of the container each have one pocket shown in figure 2 at 13a. The closure 14 has a base wall 19, a peripheral skirt, and internal threads 15. The internal threads 15 have lugs 16 extending upwardly from the end thereof. The spring element is element 20. The circumferentially facing stop is the element which extends downwardly at lead line 13 in figure 2. Each thread 12a and 15 are continuous. Each external thread has one pocket and each internal thread has one lug. Plastic is disclosed in col. 3 line 30.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 21, 50-54 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles et al. in view of DT 2,626,875. Wiles et al. discloses the claimed invention except for the threads extending for at least 450 degrees. DT 2,626,875 teaches that it is known to provide a

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container assembly with either continuous or discontinuous threads with pockets and lugs (see the discontinuous threads in figures 1-4 and the continuous threads in figures 5-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Wiles et al. with threads that extend at least 450 degrees, as taught by DT 2,626,875, in order to better guide threads into the appropriate positions and in order to prevent quick removal of the closure.

5. Claims 3 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles et al. in view of King (U.S. 4,084,717) and Ladina et al. (U.S. 5,462,186). Wiles et al. discloses the claimed invention except for the stop being at the upper end of the internal thread and except for thread extending at least 180 degrees. King teaches that it is known to provide a container assembly with a stop at the upper end of the internal thread (see elements 22 and 22a). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Wiles et al. with the stop being at the upper end instead of the lower end, as taught by King, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Ladina et al. teaches that it is known to provide a container assembly with threads that extend at least 180 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Wiles et al. with the threads extending at least 180 degrees, as taught by Ladina et al., in order to prevent quick removal of the closure.

6. Claims 7, 20 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles et al. in view of King (U.S. 4,084,717). Wiles et al. discloses the claimed invention except for the stop being at the upper end of the internal thread. King teaches that it is known to provide a container assembly with a stop at the upper end of the internal thread (see elements 22 and 22a). It would have

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been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Wiles et al. with the stop being at the upper end instead of the lower end, as taught by King, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

7. Claims 10-13, 15, 23-26, 28 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles et al. in view of Davis (U.S. 4,567,992). Wiles et al. discloses the claimed invention except for the spring being of integrally molded plastic construction. Davis teaches that it is known to provide a container assembly with a spring which is integrally molded with the closure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Wiles et al. with the spring of Davis (element 16 of Davis), in order to better urge the liner into contact with the container.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles et al. in view of in view of Ladina et al. (U.S. 5,462,186). Wiles et al. discloses the claimed invention except for the threads extending 180 degrees. Ladina et al. teaches that it is known to provide a container assembly with threads which extend 180 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Wiles et al. with the threads extending 180 degrees, as taught by Ladina et al., in order to guide threads into the appropriate positions and in order to prevent quick removal of the closure.

9. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles et al. in view of Davis (U.S. 4,567,992). The assembly of Wiles et al. discloses the claimed invention except for the spring construction. Davis teaches that it is known to provide a container assembly with a spring which extends from the closure base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Wiles et al. with the spring being

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replaced by the spring of Davis (element 16 of Davis), in order to better urge the liner into engagement with the container.

10. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles et al. in view of Davis (U.S. 4,567,992), as applied to claim 43 above, and further in view of DT 2,626,875. The modified assembly of Wiles et al. discloses the claimed invention except for the threads being continuous and extending for at least 450 degrees. DT 2,626,875 teaches that it is known to provide a container assembly with either continuous or discontinuous threads with pockets and lugs (see the discontinuous threads in figures 1-4 and the continuous threads in figures 5-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Wiles et al. with continuous threads that extend at least 450 degrees, as taught by DT 2,626,875, in order to better guide threads into the appropriate positions and in order to prevent quick removal of the closure.

11. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles et al. in view of Davis (U.S. 4,567,992), as applied to claim 43 above, and further in view of Ladina et al. (U.S. 5,462,186). The modified invention of Wiles et al. discloses the claimed invention except for the threads extending at least 180 degrees. Ladina et al. teaches that it is known to provide a container assembly with threads that extend at least 180 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Wiles et al. with the threads extending at least 180 degrees, as taught by Ladina et al., in order to prevent quick removal of the closure.

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Allowable Subject Matter

12. Claims 14, 27 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claim 57-59 are allowed.

Response to Arguments

14. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

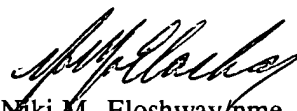
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

16. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who

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authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.



Niki M. Eloshway/nme
Patent Examiner
June 25, 2004



Stephen K. Cronin
Primary Examiner